

REMARKS

Overview

Claims 1-13 and 21-25 are pending in this application. Claim 21 has been amended for clarity. The present response is an earnest effort to place all claims in proper form for immediate allowance. Reconsideration and passage to issuance is therefore respectfully requested.

Examiner Interview

The inventor would like to thank the Examiner for the courtesy extended during the telephonic interview of September 12, 2006. The Lee and Aoki references were discussed. No agreement as to patentability was reached.

Issues Under 35 U.S.C. § 103

Claims 1-13 and 21-24 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Publication No. 2002/0010590 to Lee and further in view of U.S. Patent No. 6,157,727 to Rueda and 5,933,506 to Aoki et al. These rejections are respectfully traversed.

Lee is directed towards a language independent voice communication system which includes a translation unit for translating one language input speech to one or more corresponding other languages (Abstract). The Examiner recognizes that "Lee does not teach the earpiece having a housing in which the earpiece is adapted for being worn by the user" (Office Action, p. 2, numbered paragraph 2). The Examiner further recognizes that "Lee does not teach an earpiece unit having a plurality of microphone" (Office Action, p. 3). Aoki et al. is directed towards a transmitter-receiver having an earpiece type acoustic transducing part (Title). Rueda is

directed towards a communication system including a hearing aid and a language translation system (Abstract).

Claim 1 recites "selecting at least one of the plurality of microphones within the housing of the earpiece to detect a selected voice communication by a person other than the user." None of the cited prior art references disclose this limitation. The Examiner recognizes that Lee does not disclose this limitation (Office Action, p. 3). Nevertheless, the Examiner indicates "However, it was well known to provide an earpiece, which includes a plurality of microphones in a communication system, for the purpose of providing improved signal processing via background noise reduction and desired signal enhancement" (Office Action, p. 3). Yet, claim 1 is a method claim, and requires more than structure, but rather "selecting at least one of the plurality of microphones within the housing of the earpiece to detect a selected voice communication by a person other than the user." The Examiner's unsupported statement is directed towards improving background noise, not selecting voice communications by a person other than the user. The Examiner's unsupported statement, if true, would teach away from the claimed invention because it is directed towards reducing background noise, as opposed to capturing voice communications within the background. There is simply no convincing evidence provided by the Examiner which would support a finding of obviousness. As such, this rejection to claim 1 is improper and must be withdrawn. As claims 2-11 depend from claim 1, these rejections should also be withdrawn.

There is an independent reason for patentability of claim 5. Claim 5 recites "the plurality of microphones includes a front facing microphone, a rear facing microphone, and a side facing microphone." This language further makes clear that the earpiece translates voice of persons other than the person wearing the earpiece for the benefit of the person wearing the earpiece. In

other words, it is beneficial to use multiple directional microphones so as to be able to pick-up voice communications in different directions. Neither Lee nor Aoki nor Rueda disclose this limitation. Nor does the Examiner provide any specific basis for this rejection other than what was provided with respect to claim 1. It is respectfully submitted that this rejection should be withdrawn for this independent reason as well.

There is an independent reason for patentability of claim 8. Claim 8 recites "the earpiece is nonocclusive." The nonocclusive earpiece allows a user to be able to hear the translated voice communications while also hearing ambient noise. Neither Lee nor Aoki nor Rueda discloses this limitation, and the Examiner does not even allege otherwise. Therefore, this rejection should be withdrawn for this independent reason as well.

Independent claim 12 recites "providing an earpiece having a housing and having a plurality of microphones within the housing and a speaker within the housing, the earpiece adapted for being worn by a user; selecting one of the plurality of microphones of the earpiece to detect a selected voice communication." Therefore, it is respectfully submitted that the rejections to claim 12 should be withdrawn for the same reasons expressed with respect to claim 1.

Independent claim 13 recites "providing an earpiece having a housing and having a plurality of microphones within the housing, the earpiece adapted for being worn by a user; selecting one of the plurality of microphones of an earpiece unit to detect a selected voice communication." Therefore, it is respectfully submitted that the rejection to claim 13 should be withdrawn for the same reasons expressed with respect to claim 1.

Claim 21 recites "providing a nonocclusive earpiece housing and having a plurality of inputs for receiving voice communication and a speaker, the nonocclusive earpiece housing adapted for being worn by a user." Neither Lee nor Aoki nor Rueda provides for a nonocclusive

earpiece, and the examiner does not allege that any do. Therefore, it is respectfully submitted that this rejection should also be withdrawn. As claims 22-24 depend from claim 21, these rejections should also be withdrawn.

Independent claim 25 is directed towards a method of voice communication recites "providing an earpiece having a housing and a plurality of microphones within the earpiece housing, the earpiece adapted for being worn by a user; selecting at least one of the plurality of microphones within the housing of the earpiece to detect a selected voice communication." Therefore this rejection should be withdrawn for the same reasons expressed with respect to claim 1.

Conclusion

No fees or extensions of time are believed to be due in connection with this amendment; however, consider this a request for any extension inadvertently omitted, and charge any additional fees to Deposit Account No. 26-0084.

Reconsideration and allowance is respectfully requested.

Respectfully submitted,



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